

AMENDED IN ASSEMBLY APRIL 30, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1333

Introduced by Assembly Member Roger Hernández

February 22, 2013

An act to add Section 53069.86 to the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1333, as amended, Roger Hernández. Local government: contracts.

Existing law authorizes the legislative body of a city, county, or district to enter into contracts for various services, and, among other things, to include within the contract a time within which the whole or any specified portion of the work contemplated is to be completed.

This bill would require the legislative body of a city, county, or district to review any contract with a private party, with a total *annual* value of \$250,000 or more, ~~that contains~~ *and containing* an automatic renewal clause, *at least once every three years* on or before the annual date by which the contract may be rescinded.

This bill would require the review of the contract to include a consideration as to whether the private party pays at least the general prevailing rate of per diem wages for work of a similar character in the locality to its employees. This bill would require the contract to be rescinded unless the review of the contract contains findings that the private party pays at least the general prevailing rate of per diem wages for work of a similar character in the locality, or a living wage given the locality, whichever is greater, to its employees, and ~~the contract to be rescinded if the private party has been cited by the National Labor~~

~~Relations Board for an unfair labor practice or if the National Labor Relations Board has ruled that an unfair labor practice has been committed~~ contractor retains the employees of the prior contractor or subcontractor for at least 90 days.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 53069.86 is added to the Government
2 Code, to read:

3 53069.86. (a) The legislative body of a city, county, or district
4 shall review any contract with a private party, with a total *annual*
5 value of two hundred fifty thousand dollars (\$250,000) or more,
6 that contains an automatic renewal clause, sometimes referred to
7 as an “evergreen” provision, *at least once every three years* on or
8 before the annual date by which the contract may be rescinded.
9 Prior to the renewal of a contract, the legislative body shall make
10 findings on the record, including, but not limited to, whether the
11 contract contains updated information and whether the contract
12 fits the needs of the legislative body.

13 (b) Any contract with an evergreen provision as described in
14 subdivision (a) shall be rescinded unless the review of the contract
15 contains findings that the private party pays both of the following
16 findings:

17 (1) *The contractor pays* at least the general prevailing rate of
18 per diem wages for work of a similar character in the locality, or
19 a living wage given the locality, whichever is greater, to its
20 employees.

21 (2) *The contractor retains the employees of the prior contractor*
22 *or subcontractor for at least 90 days.*

23 ~~(c) Any contract with an evergreen provision as described in~~
24 ~~subdivision (a) shall be rescinded if the private party has been cited~~
25 ~~by the National Labor Relations Board for an unfair labor practice~~
26 ~~or if the National Labor Relations Board has ruled that an unfair~~
27 ~~labor practice has been committed.~~

28 (c) *For purposes of this section, the prevailing rate of per diem*
29 *wages shall be determined pursuant to subdivision (b) of Section*
30 *1773.9 of the Labor Code.*

1 (d) *For purposes of this section, “per diem wages” shall include*
2 *the employer payments described in Section 1773.1 of the Labor*
3 *Code.*

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